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U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)	
449122005700	

Application Number	Filed
09/831,139	June 21, 2001

First Named Inventor: Friedrich MUELLER

Art Unit	Examiner
2626	V. P. Harper

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).
Note: No more than five (5) pages may be provided.

I am the

- [ ] applicant /inventor.
- [ ] assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)
- [x] attorney or agent of record. Registration number 51,683
- [ ] attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34. _____

Signature

Brian N. Fletcher
Typed or printed name

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Telephone number

July 23, 2007
Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

- [ ] *Total of 1 forms are submitted.

va-211496

PATENT
Docket No. 449122005700

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In the application of:	
Friedrich MUELLER	Examiner: V. Paul Harper
Serial No.: 09/831,139	Art Unit: 2626
Filing Date: June 21, 2001	
For: DATA PROCESSING SYSTEM OR COMMUNICATIONS TERMINAL WITH A DEVICE FOR RECOGNIZING SPEECH AND METHOD FOR RECOGNIZING CERTAIN ACOUSTIC OBJECTS	

PRE-APPEAL BRIEF REQUEST FOR REVIEW

MS AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicant respectfully requests review of the Action mailed January 22, 2007 for the reasons set forth below. Applicant is filing a Notice of Appeal concurrently herewith.

I. CLAIMS 11-14 HAVE BEEN IMPROPERLY REJECTED UNDER 35 USC 103(a) AS UNPATENTABLE OVER HAAVISTO U.S. PATENT NO. 5,864,603

Claims 11-14 stand rejected under 35 USC 103(a) as unpatentable over Haavisto U.S. Patent No. 5,864,603. Applicant respectfully traverses this rejection.

Independent claim 11 recites a data processing system for recognizing speech that includes a speech recognition device configured to recognize acoustic objects. The acoustic objects include at least one of individual letters, combinations of letters or control commands. An acoustic device for acoustic output or optical display of recognized acoustic objects is also

included. If an acoustic object is incorrectly recognized, the speech recognition device subsequently recognizes a first control command that causes a speech recognition algorithm to expect repeated utterance of the incorrectly recognized object and a second control command that causes the speech recognition algorithm to output at least one further acoustic object. A recognition probability of the at least one further acoustic object is less than the recognition probability of the previously output acoustic object, but greater than the recognition probability of other acoustic objects.

Independent claim 13 recites a method analogous to the system of claim 11.

This same combination of elements is neither disclosed nor suggested by Haavisto or any of the other cited references.

The Action states that Haavisto discloses the claimed invention, except "a recognition probability...the recognition probability of other acoustic objects." Previous Actions relied on Shimada U.S. Patent No. 5,222,121 to supply the missing piece. However, as of the last Action, the Examiner now contends that this feature is well known in the art and disclosed in the Background section of Haavisto, referring to col. 2, lines 28-39, which is merely a reference to the Shimada patent. Thus, the Examiner apparently withdrew the prior art rejection of record, which was Haavisto in combination with Shimada, and now applies Haavisto, with the prior art of Haavisto (which is simply the Shimada reference). Applicant respectfully disagrees.

The Action dated July 25, 2005 stated that "Shimada discloses a voice recognition dialing unit where if an utterance is misrecognized the user can call the next lower candidate [i.e., the next highest probability] by entering a voice command "NEXT ONE" (col. 4, line 65 through col. 5, line 5)." The claimed invention, on the other hand, requires the situation where "a recognition probability of the at least one further acoustic object is less than the recognition probability of the previously output acoustic object, but greater than the recognition probability of other acoustic objects." This is not disclosed by either Haavisto or Shimada. In fact, Shimada

simply discloses choosing the next candidate in a predetermined order, whereas the claimed invention selects the candidate based on a probability.

The prior art (Shimada) cited in Haavisto refers to, for example, lower candidates, lower-place candidates - i.e., first, second and third place candidates - without clearly stating how these candidates are ranked to implement the invention. Specifically, Shimada fails to teach or suggest by which way the order that apparently exists between first, second and third place candidates is defined. That is, there is no disclosure in Haavisto or Shimada that teaches one having skill in the art how to determine the order of the candidates.

Moreover, in the Advisory Action dated December 28, 2005, the Examiner cited Shimada as disclosing the recognition operation using "names [that] are selected ...where the ordering is necessary with the most likely match first, the next most likely match next, etc." (referring to col. 5, lines 1-7; col. 6, lines 15-25, "the recognition operation assigns a likelihood and the options are presented as an ordered list"). However, the Examiner implies that Shimada implicitly discloses that it is well known in speech recognition that degrees of recognition are determined between an input utterance and potential matches (templates), and cites to Markowitz as proof. The Examiner then concludes that "when multiple candidates result from a recognition operation, these candidates will have an inherent ordering based on degree of match where the candidates with the best match is considered the most likely match. And it follows that if the first best match is not the desired result, then the next match is now the most likely candidate."

However, while it is indeed true that degrees of recognition may be determined between an input utterance and potential matches, as used in the conventional art, there is simply no disclosure in either Shimada or Haavisto as to how the candidates are ranked in order to determine the degree of recognition. Rather, as discussed above, Shimada simply states that a user can call up a lower candidate by entering a voice command "NEXT ONE." That is, when the name of the first-place candidate recognized is different from the desired name, the user can

call up a number associated with the name of the lower place candidate by entering a command (Shimada, col. 5, lines 15-20). Again, there is no discussion of ordering, degrees of recognition, probabilities or other similar features.

The Examiner, however, states that the mere fact a recognition occurs means that there is inherently some form or ordering or degree of recognition. A review of the Markowitz reference shows that there are different methods of voice recognition, for example, template matching, acoustic-phonetic and stochastic processing. While a degree of recognition and/or ordering may indeed occur because of the methods applied, there is no disclosure of the recognition as required by the claimed invention. Specifically, Haavisto, Shimada and Markowitz fail to disclose a recognition probability of the at least one further acoustic object is less than the recognition probability of the previously output acoustic object, but greater than the recognition probability of other acoustic objects.

"[O]bviousness requires a suggestion of all limitations in a claim." *CFMT, Inc. v. Yieldup International Corp.*, 349 F.3d 1333, 1342. (Fed. Cir. 2003). On the requirements for a *prima facie* case of obviousness, MPEP 2143.03 further explains, "To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. ... All words in a claim must be considered in judging the patentability of that claim against the prior art."

Since the recited structure is not disclosed or suggested by the applied reference, claims 11-14 are patentable.

Applicant respectfully requests that the reviewers find that this rejection should be withdrawn.

V. CONCLUSION

The obviousness rejection of claims 9-14 should be withdrawn for the reasons discussed above.

In light of the above, a Notice of Allowance is solicited.

In the event that the transmittal letter is separated from this document and the Patent and Trademark Office determines that an extension and/or other relief is required, applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952**, referencing Docket No. **449122005700**.

Respectfully submitted,

Dated: July 23, 2007

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